IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 890 of 2005

Between:

N. Bala Koti reddy, S/o. Yellamanda Reddy,
Kavalakuntla Village, Pullalacheruvu Mandal,

Prakasam District.

..... PETITIONER

AND

1 The Joint Collector, Ongole, Prakasam District.
2 The Revenue Divisional Officer, Markapur,

Prakasam District.
3 The Mandal Revenue Officer, Pullalcheruvu Mandal,

Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents herein in rejecting the stay pending appeal by setting aside the proceedings dt. 7-1-2005 in Rc.CS2/5485/2004 issued by the 1st respondent herein in so far as rejecting of stay is concerned by declaring the impugned action as illegal, arbitrary and violative of rights guaranteed under Article 19(1) (f) and 300-A of the Constitution of India and pass such other order or orders.

Counsel for the Petitioner: MR.V.MALLIK

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

ORDER:

The authorization of the petitioner as Fair Price Shop Dealer was cancelled by the 2nd respondent through his order, dated 08.12.2004. Aggrieved thereby, the petitioner preferred an appeal before the 1st respondent. He also filed an application for interim orders. Through his order, dated 07.01.2005 the 1st respondent rejected the application for stay. Hence, this writ petition.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

Clause 20 of the A.P.State Public Distribution System Control Order, 2001 provides for appeals against the orders passed by the appointing authority viz., Revenue Divisional Officer. In the appeals preferred against the orders of appointment or cancellation of appointment, it is rather rare that interim orders are passed. The reason is that the illegality or otherwise of an order of appointment or cancellation can be established only at the time of hearing of the appeal and not during the interlocutory proceedings.

Therefore, this Court does not find any illegality in the order, dated 07.01.2005 passed by the 1st respondent. To protect the interests of the petitioner, the 1st respondent can be directed to dispose of the appeal and the 2nd respondent can be required to withhold the steps for appointment of Dealer on regular basis in the place

of the petitioner.

Hence, the writ petition is disposed of, directing that the 1st respondent shall pass appropriate orders in the appeal preferred by the petitioner, within a period of six weeks from the date of receipt of this order and that the 2nd respondent shall not appoint any Dealer on regular basis in the place of the petitioner, till the disposal of the appeal. There shall be no order as to costs.

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28.01.2005

Jsu
To

1 The Joint Collector, Ongole, Prakasam District.
2 The Revenue Divisional Officer, Markapur,

Prakasam District.
3 The Mandal Revenue Officer, Pullalcheruvu Mandal,

Prakasam District.

4 2CCs to the G.P for Civil Supplies, High Court Buildings,

Hyderabad(O.U.T).

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